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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/846,857

05/01/2001

Christopher K. Morzano

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09/01/2005

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EXAMINER

SAM, PHIRIN

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/846,857

**Applicant(s)**

MORZANO, CHRISTOPHER K.

**Examiner**

Phirin Sam

**Art Unit**

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17, 19-21 and 23-32 is/are allowed.
- 6) ☒ Claim(s) 10, 12-15, 17-22, 25, 27, 28 and 33-36 is/are rejected.
- 7) ☒ Claim(s) 11, 16 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

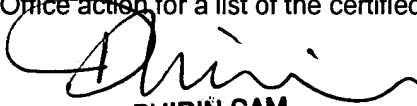
### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
PHIRIN SAM  
PRIMARY EXAMINER

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,732,106 (hereinafter referred as "Rasmussen") in view of US Patent 5,739,969 (hereinafter referred as "Garza").

Rasmussen discloses the invention (**claims 33-36**) as claimed including a method for counting packets of cell data on a switch, the method comprising:

- (a) limiting a switch count to a switch maximum count value (see Fig. 2, col. 4, lines 15-18);
- (b) providing a switch start count value (see Fig. 2, col. 3, lines 50-53);
- (c) providing a switch stop count value that may be less than the switch start count value (see Fig. 2, col. 3, lines 50-53);
- (d) counting sequentially from the switch start count value (see Fig. 2, col. 3, lines 50-53);
- (e) resetting the switch count upon reaching the switch maximum count value (see Fig. 2, col. 4, lines 9-18);
- (f) continuing to count until the switch stop count value is reached (see Fig. 2, col. 3, lines 9-18);
- (g) resetting the switch count to the switch start count value upon reaching the switch stop count (see Fig. 2, col. 4, lines 9-18).

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Rasmussen does not disclose cell data. However, Garza discloses cell data (see abstract and summary). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine data cell teaching by Garza with Rasmussen. The motivation for doing so would have been to provide flexibility and efficiency in handling intermittent traffic. Therefore, it would have been obvious to combine Garza and Rasmussen to obtain the invention as specified in the claims 33-36.

3. Claims 10, 12-15, 17-22, 25, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,359,592 (hereinafter referred as "Corbalis") in view of US Patent 5,274,641 (hereinafter referred as "Shobatake").

**Regarding claims 10, 12-15, 17-22, 25, and 27-28,** Corbalis discloses a switch comprising:

- (a) a plurality of serial input ports coupled to a first bus (see Figs. 2, 3, and 5, elements 50-53, and 62, col. 9, lines 37-44);
- (b) a memory coupled to the input port (see Fig. 5, elements 210, 212, 214, and 216, col. 8, lines 56-67, col. 9, lines 1-26);
- (c) a plurality of serial output ports coupled to the memory and to a second bus (see Figs. 2, 3, and 5, elements 50-53, and 62, col. 9, lines 37-44),

Corbalis does not disclose a programmable counter having programmable start and stop value the programmable counter operable to increment the start value until the start value reaches a maximum count at which time the programmable counter rolls the start value over to a starting count and continues to increment the start value. However, Shobatake discloses a programmable counter having programmable start and stop value the programmable counter operable to

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increment the start value until the start value reaches a maximum count at which time the programmable counter rolls the start value over to a starting count and continues to increment the start value (see Figs. 16a and 16b, col. 26, lines 3-26, 40-49). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine a programmable counter having programmable start and stop value the programmable counter operable to increment the start value until the start value reaches a maximum count at which time the programmable counter rolls the start value over to a starting count and continues to increment the start value teaching by Shobatake with Corbalis. The motivation for doing so would have been to provide to flexibly accommodate an arrangement of different polishing/shaping function for each of the node systems read on col. 2, lines 25-27. Therefore, it would have been obvious to combine Shobatake and Corbalis to obtain the invention as specified in the claims 10, 12-15, 17-22, 25, and 27-28.

***Allowable Subject Matter***

4. Claims 11, 16, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 23, 24, and 29-32 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on Mon-Fri, 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272 - 3126. The fax number for the organization where this application or proceeding is assigned is (571) 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: August 25, 2005

  
PHIRIN SAM  
PRIMARY EXAMINER